

## Department of Justice

## § 27.3

### Subpart A—Protected Disclosures of Information

#### § 27.1 Making a protected disclosure.

(a) When an employee of, or applicant for employment with, the Federal Bureau of Investigation (FBI) (FBI employee) makes a disclosure of information to the Department of Justice's (Department's) Office of Professional Responsibility (OPR), the Department's Office of Inspector General (OIG), the FBI Office of Professional Responsibility (FBI OPR) (collectively, Receiving Offices), the Attorney General, the Deputy Attorney General, the Director of the FBI, the Deputy Director of the FBI, or to the highest ranking official in any FBI field office, the disclosure will be a "protected disclosure" if the person making it reasonably believes that it evidences:

- (1) A violation of any law, rule or regulation; or
- (2) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(b) Any office or official (other than the OIG or OPR) receiving a protected disclosure shall promptly report such disclosure to the OIG or OPR for investigation. The OIG and OPR shall proceed in accordance with procedures establishing their respective jurisdiction. The OIG or OPR may refer such allegations to FBI-OPR for investigation unless the Deputy Attorney General determines that such referral shall not be made.

[Order No. 2264-99, 64 FR 58786, Nov. 1, 1999, as amended by Order No. 2492-2001, 66 FR 37904, July 20, 2001]

#### § 27.2 Prohibition against reprisal for making a protected disclosure.

(a) Any employee of the FBI, or of any other component of the Department, who has authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority, take or fail to take, or threaten to take or fail to take, a personnel action, as defined below, with respect to any FBI employee as a reprisal for a protected disclosure.

(b) Personnel action means any action described in clauses (i) through

(xi) of 5 U.S.C. 2302(a)(2)(A) taken with respect to an FBI employee other than one in a position which the Attorney General has designated in advance of encumbrance as being a position of a confidential, policy-determining, policy-making, or policy-advocating character.

### Subpart B—Investigating Reprisal Allegations and Ordering Corrective Action

#### § 27.3 Investigations: The Department of Justice's Office of Professional Responsibility and Office of the Inspector General.

(a)(1) An FBI employee who believes that another employee of the FBI, or of any other Departmental component, has taken or has failed to take a personnel action as a reprisal for a protected disclosure (reprisal), may report the alleged reprisal to either the Department's OPR or the Department's OIG (collectively, Investigative Offices). The report of an alleged reprisal must be made in writing.

(2) For purposes of this subpart, references to the FBI include any other Departmental component in which the person or persons accused of the reprisal were employed at the time of the alleged reprisal.

(b) The Investigative Office that receives the report of an alleged reprisal shall consult with the other Investigative Office to determine which office is more suited, under the circumstances, to conduct an investigation into the allegation. The Attorney General retains final authority to designate or redesignate the Investigative Office that will conduct an investigation.

(c) Within 15 calendar days of the date the allegation of reprisal is first received by an Investigative Office, the office that will conduct the investigation (Conducting Office) shall provide written notice to the person who made the allegation (Complainant) indicating—

(1) That the allegation has been received; and

(2) The name of a person within the Conducting Office who will serve as a contact with the Complainant.

(d) The Conducting Office shall investigate any allegation of reprisal to the